

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK  
NEW YORK, NEW YORK

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Abdul Haq YAZIDI, U.S. Citizen (A14 709 792), petitioner  
Junnah A. YAZIDI (A79 720 261), beneficiary 1  
Abdullah Mohamed NASSER (A72 053 448), beneficiary 2  
Asrar Abdulla ASKAR (A79 720 262), beneficiary 3

Plaintiffs,

- against -

**PETITION FOR RELIEF IN  
THE NATURE OF MANDAMUS**

US Citizenship & Immigration Services  
by its District Director  
at New York City, New York,

**Case No.: 1:08-cv-05119-BSJ**

Defendant.

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This is an action in the nature of Mandamus to compel the US Citizenship & Immigration Services (hereinafter, the "CIS") to locate the file of the above-captioned Plaintiffs Junnah A. Yazidi (hereinafter "beneficiary 1"), her husband Abdullah Mohamed Nasser (hereinafter "beneficiary 2") and her daughter, Asrar Abdulla Askar (hereinafter "beneficiary 3"), and schedule beneficiary 1's case for immediate adjudication of her Application to Register Permanent Residence or Adjust Status, filed on INS form I-485, on the basis of her being the daughter of a United States Citizen and the beneficiary of a Petition for Immigrant Relative on INS form I-130, pursuant to Section 245 of the Immigration and Nationality Act of 1952, as amended (hereinafter "INA"). Both beneficiary 2 and beneficiary 3 are deriving permanent resident status from beneficiary 1 based on their immediate relative status.

1. The jurisdiction of this Court to entertain this action is based in Title 28 USC 1361.
2. Plaintiff Abdul H. Yazidi is a 70-year-old male, naturalized citizen of the US since November 9, 1971 (Exhibit 1).
3. Beneficiary 1 and Beneficiary 3 last entered the United States on or about August 21, 1995 with B-2 visa (Exhibit 2).
4. Beneficiary 2 last entered the United States on or about September 20, 1990 with B-1 visa (Exhibit 3).
5. Beneficiary 1 and Beneficiary 3 married on or about March 22, 1996 in Brooklyn, New York, USA (Exhibit 4).

6. On or about June 12, 1996, Plaintiff Abdul H. Yazidi filed an I-130 petition on behalf of beneficiary 1 (Exhibit 5). This I-130 petition was approved on October 4, 1996 by the Vermont Service Center (Exhibit 6).
7. On or about June 10, 2001, beneficiary 1 filed an I-485 application based on this approved I-130 petition. At the same time, beneficiary 2 and 3 each filed an I-485 application, attempted to derive status for spouse and child (Exhibit 7).
8. Both beneficiary 1, beneficiary 2 and beneficiary 3 were scheduled an interview for their I-485 applications by the Immigration Services (Exhibit 8) and all three of them attended such interview on September 19, 2003 at 26 Federal Plaza, New York, New York. They were interviewed by DAO Graham (Exhibit 9).
9. On or about December 15, 2005, both beneficiary 1 and beneficiary 2 were scheduled to be interviewed by Immigration Services again for the same applications (Exhibit 10). However, the petitioner, Abdul H. Yazidi did not show up because he was sick in Yemen (Exhibit 11).
10. The beneficiaries received a decision letter from Immigration Services dated January 14, 2006, which stated that all three beneficiaries' I-485 applications were denied (Exhibit 12).
11. On or about February 27, 2006, the three beneficiaries filed their 2<sup>nd</sup> I-485 applications along with Section 245i and supporting documentation (Exhibit 13).
12. On or about January 3, 2007, both petitioner and the beneficiaries were scheduled to be interviewed by Immigration Services again (Exhibit 14). They were interviewed by DAO Lucas at 26 Federal Plaza, New York, New York.
13. At the conclusion of the interview, DAO Lucas indicated that their security checks are still pending, no further documentation was requested.
14. On or about April 4, 2007, beneficiary 1, by and through counsel, submitted an inquiry to the attention of DAO Lucas regarding the current status in this matter (Exhibit 15), said inquiry being completely ignored with no response whatsoever.
15. On or about May 16, 2007, beneficiary 1 paid a visit to the Immigration Service office in New York City, New York (Exhibit 16), spoke with an Immigration Officer and submitted her inquiry regarding a decision in this matter (Exhibit 17). Such inquiry being completely ignored with no response whatsoever.
16. As of May 20, 2008, the beneficiaries have not received any notification as to a decision on their I-485 adjustment of status application. Numerous inquiries to the INS over a period of 16 months have been completely ignored, with no response or acknowledgment whatsoever.

17. Despite the passage of sixteen (16) months, the Plaintiffs herein has received no correspondence whatsoever from the CIS regarding a final decision on the adjustment of the beneficiaries' status to that of a lawful permanent resident.
18. It is hereby contended that the Defendant US Citizenship & Naturalization Service has lost or misplaced the said files or has been negligent or willful in its failure to process the above status adjustments. It is crucial that the decision be rendered on these adjustments of status as quickly as possible.
19. At this point in time, in that absent final processing to the adjustments of their status, the beneficiaries continue to suffer irreparable harm, it is crucial that these cases be adjudicated as quickly as possible.

**WHEREFORE**, it is respectfully requested that the US Citizenship & Naturalization Service be compelled to locate the above-mentioned files and have these cases immediately schedule for final processing of the beneficiaries' lawful permanent residence within SIXTY (60) DAYS.

Dated: New York, New York  
May 20, 2008

Yours, etc.,

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